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Review of Ourselves Unborn: A History of the Fetus in Modern America, by Sara Dubow

Rose Holz

University of Nebraska - Lincoln, rholz2@unl.edu

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REVIEW

Ourselves Unborn: A History of the Fetus in Modern America. By Sara Dubow
(Oxford University Press, 2011. viii + 308 pp.).

With the publication of the Bancroft Prize-winning *Ourselves Unborn*, Sara Dubow offers a long overdue analysis and historicization of what has become a central feature in battles over reproductive rights: the fetus. Drawing upon legal and legislative records as well as educational tracts, museum exhibits, medical textbooks and journals, personal memoirs, and the popular press, Dubow traces what she calls “fetal stories” (4) in America from the late nineteenth century through the early twenty-first. In so doing, she persuasively reminds her readers the following: First, that our understanding of the fetus is not simply a product of biology or theology. Rather, it also speaks to Americans’ values and politics, and because these are rooted in specific historical moments, they bring with

them specific understandings of “personhood, family, motherhood, and national identity” (3). Thus in a play on words, the book’s title suggests that a history of the fetus reveals as much about ourselves as it does whatever it is that occupies women’s wombs. Second, she makes clear that these understandings have changed over time. As she puts it nicely: a “fetus in 1870 is not the same thing as a fetus in 1930, which is not the same thing as a fetus in 1970, which is not the same thing as a fetus in 2010” (3)—words that ring like music to this historian’s ears. Third, she shows how these fetal debates extend beyond abortion rights and influence such things as workplace policies and drug enforcement programs, a crucial reminder as to the many ramifications of fetal politics. Finally, she makes clear that recent debates about fetal identities are hardly new. Instead, and in the case of this book, they have been playing themselves out for over a hundred years.

What I especially liked about Dubow’s analysis is her ability in the first few chapters to capture through snapshot-like views how our understanding of the fetus and the woman whose body it occupies has changed over time. Particularly striking is her use of legal tort cases in this regard. In *Dietrich v. Northampton* (1884), for example, when a woman filed suit against the city of Northampton for the wrongful death of her unborn child, arguing that the ill-maintained streets caused her to fall and ultimately miscarry, the Massachusetts Supreme Court ruled against her, arguing that a fetus was not a distinct identity and instead a part of the mother. Notably, this would be an important legal precedent that held for many years. However, with *Williams v. Marion Rapid Transit Inc.* (1949) came a dramatic reversal of the long-dominant *Dietrich* decision. Here not only was the life of the fetus affirmed because of its viability but the woman who sought damages in the wrongful death of her unborn child won her case. By 1956 this shifted even more, with the *Hornbuckle v. Plantation Pipe Line* ruling establishing conception as the deciding moment of life. Thus, as Dubow argues, within a span of roughly seventy years, fetal personhood (as defined by law) went from birth in the 1880s, to viability in the 1940s, to conception in the 1950s. A similar snapshot view of these changes comes with Dubow’s use of public exhibitions. For example, attendees at the 1933 World’s Fair in Chicago were curious, yet little bothered, by an exhibit of forty embryos and fetuses. But by 1977, when a fetal exhibit was displayed at the Lake County Fair in Illinois, a completely new scenario was in place, and not only was the exhibitor arrested but the specimens he used were laid to rest in tiny coffins in a local cemetery.

Also compelling are Dubow’s final chapters in which she describes the creation and defense of “fetal rights” by the 1970s and the emergence of debates over “fetal pain” by the 1980s. Here we get a sense of fetal stories’ many ramifications. With the rise of fetal medicine in the 1970s, for example, doctors were able to re-assert a lost authority over women because now physicians had two patients to consider: the woman *and* her fetus, a newfound leverage that re-created notions of “good” motherhood versus “bad.” Similarly, the emergence of fetal rights ushered in new ways both to punish women for their behavior (through drug enforcement policies that now concerned themselves with “fetal abuse”) and engage in workplace discrimination (through “fetal protection policies”), which again disproportionately affected women despite men’s role in the reproductive process. But what I found most compelling was her discussion of the ways in

which pro-lifers appropriated the language of 1960s liberalism to make their case against abortion by the 1980s: the “right to choose” became “the right to know” (with the need for “informed consent” to justify telling women about fetal pain) and the need for compassionate humanitarianism to protect society’s most vulnerable was now extended to a new victimized group, fetuses.

As much as I liked this book, I still secretly hoped for a bit more. First, I wanted more explanation behind the dramatic changes because, despite the snapshot views and the chronology she suggests through her chapter titles, Dubow never quite offers concrete periodization to explain the shifts she found. Perhaps this is a product of her relatively non-linear method of analysis, which tends to run alongside her many fascinating stories often anticipating her readers’ questions and observations, making it feel as if you are sharing the same ride, delightfully so. I still longed, however, for a bit more synthetic clarification. Second, I hoped for a bit more danger in her analysis. When Dubow discusses on pages 166-167 another pro-life appropriation of liberal language—in this case, “that knowledge was socially and politically constructed and that multiple truths could co-exist” in order to challenge “the credibility and legitimacy of experts who argued against the existence of fetal pain”—this gave me pause because it made me wonder if only one side could claim ownership of this theoretical perspective. Pro-choice accounts of the history of abortion, for example, regularly use the social construction of pregnancy and competing opinions about the start of life to help make their case for the legality of abortion, by pointing out that popular opinion in the 1800s held that life began at quickening (roughly four months in) with doctors working to convince people otherwise when criminalizing abortion at all stages of pregnancy by the end of the 1800s. But could not pro-life versions of the history of abortion legitimately use similar logic to make their case? As one of my (prochoice) students once said, if she were to write a pro-life account: she would argue that popular opinion today consists of a different set of views, and just as we need to accept as legitimate earlier beliefs about quickening, we need to do the same with the belief that life begins at conception—be it held by people in the nineteenth century or the twenty-first. And it’s this sort of muddying of the waters I hoped to find in Dubow’s analysis of the fetus. But while Dubow herself doesn’t go down these roads, I think she offers the evidence and space for such paths to be pursued by others.

Rose Holz
University of Nebraska, Lincoln
rholtz2@unl.edu